

### **REMARKS**

These remarks are presented in response to the Office Action. Reconsideration of the application is respectfully requested in view of the Terminal Disclaimer submitted herewith and in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

#### **Obviousness Type Double Patenting Rejection**

The Examiner has provisionally rejected claims 1-12 under the judicially created doctrine of obviousness-type double patenting over copending U.S. Patent Application Serial No. 10/748,051 (the "'051 Application") in view of *Gilliland et al.* (U.S. Patent No. 6,350,063). In connection with that rejection, the Examiner has noted that a timely filed terminal disclaimer can be used to overcome a provisional rejection based on a nonstatutory double patenting ground if the conflicting application or patent is shown to be commonly owned with the present application.

While Applicant disagrees that claims 1-12 are unpatentable over claims 1, 3, 4, 7-9 and 12 of the '051 Application in view of *Gilliland et al.*, Applicant has nonetheless submitted herewith a terminal disclaimer pursuant to 37 CFR §§ 1.321(c), 1.130(b) and 3.73(b).

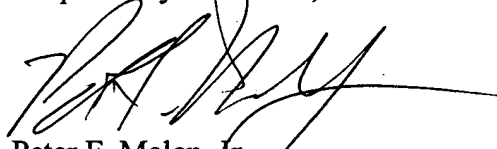
In view of the terminal disclaimer submitted herewith in regard to the '051 Application (issued on April 12, 2005 as U.S. Patent No. 6,878,875), Applicant respectfully submits that the rejection of claims 1-12 has been overcome and should be withdrawn.

**CONCLUSION**

In view of the remarks and terminal disclaimer submitted herein, Applicants respectfully submit that each of the pending claims 1-12 is now in condition for allowance. Therefore, reconsideration of the rejection is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 8<sup>TH</sup> day of July, 2005.

Respectfully submitted,



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